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**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ESTATE OF VIOLA B. SPAULDING, *et al.*,

Plaintiffs,

v.

YORK CLEANERS, INC., *et al.*

Defendants.

Case No. C 08-00672

~~[PROPOSED]~~ ORDER RE GOOD FAITH
 SETTLEMENT DETERMINATION AS TO
 MARTIN FRANCHISES, INC. AND
 ESTABLISHMENT OF THE MILLER AVENUE
 REMEDIATION TRUST

Hearing:
 April 17, 2009
 10:00 a.m.
 Court Rm. 8 on the 19th Floor
 Hon. Charles R. Breyer

AND RELATED COUNTERCLAIMS,
 CROSS-CLAIMS, AND THIRD-PARTY
 CLAIMS

Plaintiffs and Counter-Defendants the Estate of Viola B. Spaulding, Florence Spaulding, Lynn Spaulding doing business as Spaulding Enterprizes, Tina Spaulding Ward doing business as Spaulding Enterprizes, and the Conservatorship of Eileen Spaulding's (collectively, "Spaulding") Motion for Good Faith Settlement Determination and Establishment of the Miller Avenue Remediation Trust came on regularly for hearing by this Court on April 17, 2009, in Courtroom 8, before the Honorable Charles R. Breyer. After full consideration of the papers submitted, the oral representations of all interested parties and good cause appearing therefore, the motion is GRANTED as set forth below:

1. The Court finds and determines that the settlement has been entered into in good faith within the meaning of Sections 877 and 877.6 of the California Code of Civil Procedure and is hereby



1 approved as a good faith settlement.

2 2. Section 4 of the Uniform Comparative Fault Act (“UCATA”), § § 1-9, 12 U.L.A. 63-107
3 (1996), in pertinent part, is hereby adopted as the federal and state common law in this case for the
4 purpose of determining the legal effect of the settlement on non-settling entities.

5 3. The Court finds that the second amended complaint, third party complaints, and answers
6 assert claims for contribution and indemnity as to Martin Franchises, Inc., either directly or through
7 alternative theories seeking damages for the environmental contamination.

8 4. Consistent with Sections 877 and 877.6 of the California Code of Civil Procedure and
9 Section 4 of the UCATA, all claims herein for contribution and indemnity as to Martin Franchises, Inc.,
10 no matter how denominated, are barred. Accordingly, those portion of Spaulding’s second amended
11 complaint and those portions of the third party complaints of York Cleaners, Inc. and David Victor
12 Lewis against Martin Franchises, Inc. are hereby dismissed with prejudice.

13 5. The Court retains continuing jurisdiction over the settlement and the settling parties to
14 resolve any action, adjudication, or dispute related to the settlement.

15 6. The Court further finds that a settlement fund should be, and hereby is, established, and
16 shall be operated so as to qualify either as a “Designated Settlement Fund” or “Qualified Settlement
17 Fund” pursuant to section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and the regulations
18 promulgated pursuant thereto and codified at 26 C.F.R. § 1.468B and in accordance with the terms and
19 conditions of the Declaration of Trust for the Miller Avenue Remediation Trust attached hereto as
20 Exhibit 1 and incorporated by reference as though fully set forth herein.

21 IT IS SO ORDERED.

22 DATED: May 11, 2009

